

# Sumter City-County Board of Appeals

March 10, 2010

## BOA-10-06, 2841 Broad St – Bingo Parlor (County)

### I. THE REQUEST

**Applicant:** Hal Irwin

**Status of the Applicant:** Contract Purchaser

**Request:** A variance from the strict application of Article 8, Section J of the Sumter County Zoning Ordinance, parking and landscaping retrofitting requirements.

**Location:** 2841 Broad St

**Present Use/Zoning:** Vacant Structure/GC

**Tax Map Reference:** 186-04-01-007

### II. BACKGROUND

On February 10, 2010, the Board of Appeals granted Special Exception Approval to operate a bingo parlor at 2841 Broad St. The approval was granted with the understanding that the applicant would be returning to request certain site development variances related to parking lot and landscaping retrofitting requirements as required by Article 8, Section J. Specifically these variances related to bufferyard widths.

2841 Broad St. is a +/- 0.87 acre property zoned General Commercial (GC) situated at the corner of Broad St. and Mason Rd. in Sumter County. The property has +/-195 ft. of frontage on Broad St. and +/-196 ft. of frontage on Mason Rd. Based on Sumter County Assessors records, the property was originally developed in 1969 with improvements in 1985 – prior to adoption of current zoning regulations.

The site contains a +/-8662 sq. ft. commercial building and has a paved parking lot with two commercial curb cuts on Broad St. and one on Mason Rd. Currently there is minimal



landscaping on site and landscaped bufferyards are non-existent. Based on submitted site plans, which accompanied the Special Exception request, the site does not meet the minimum 10 ft. bufferyard width requirements along the Broad St. and Mason Rd. frontages nor does it meet the required 5 ft. bufferyard width on the interior side. These non-conformities were grandfathered as long as the structure remained in continuous use. However, based on Business License Records an active business has not been in the building since 2005.

*Land Use & Zoning:*

The 2030 Comprehensive Plan designates this property as part of the Priority Commercial Corridor (PCC). Priority Corridor locations are designated for protection against undesirable uses such as industrial, automotive repair, or uses primarily engaged in outdoor storage. These locations encourage both destination retail commercial uses and neighborhood commercial uses as appropriate. Design, layout, impact on adjacent properties, landscaping, and architecture all play a vital role in determining context viability.

The staff has visited the site and conducted an on-site review of the surrounding properties. Staff believes that use as a bingo parlor is in keeping with the property's GC zoning designation, and is consistent with the 2030 Comprehensive Plan.

The current zoning for 2841 Broad St. is General Commercial (GC). This location was approved as a special exception for Bingo Parlor use at the last BOA meeting on February 10, 2010. The following table details the surrounding uses and zoning districts for all adjacent properties:

	<b>Zoning</b>	<b>2030 Land Use Designation</b>	<b>Types of Uses</b>	<b>Compatible with proposed use (yes or no)</b>
North	GC	PCC / PCMU	Vacant	Yes
South	GC	PCC	Furniture Store	Yes
East	GC	PCC	Vacant	Yes
West	GC	PCC	Insurance	Yes

*PCC = Priority Commercial Corridor, PCMU= Priority Commercial / Mixed Use*

The Sumter County's Zoning Ordinance requires non-conforming sites to comply with Article 6: Section G:Retrofitting Parking Lots, Buffers, and Landscaping and Article 8: Design and Improvement Standards for Parking Lots once the grandfathered status has expired. Specifically Section 6.g.1 and Article 8, Sections D and J of the County Zoning Ordinance states:

**6.g.1.** *It shall be the responsibility of owners of property to comply with the provisions of 8.d.11 of this Ordinance.*

**8.d.11.** *Retrofitting Under Prevailing Landscaping, Buffering, and Parking Lot Landscaping Standards: As per Article Six, Section G of this Ordinance, any commercial or industrial activity which remains vacant on a parcel of land for a six (6) month period, and re-opens as the same use or different use (which may be permitted in the zoning district) shall meet all of the standards of this Article.*

**8.b.6.** *Landscape Design:*

- a. *Reasonable landscaping should be provided at site entrances, in public areas, in parking lots, adjacent and around the perimeter of buildings. All landscaped areas shall be irrigated and placed on a timer system. The type and amount of landscaping required shall be allowed to vary with the type of development*
- b. *The plant or other landscaping material that best serves the intended function shall be selected. Landscaping materials shall be appropriate for the local climate, soil conditions, and general site characteristics.*

**8.d.7.** *Buffering:*

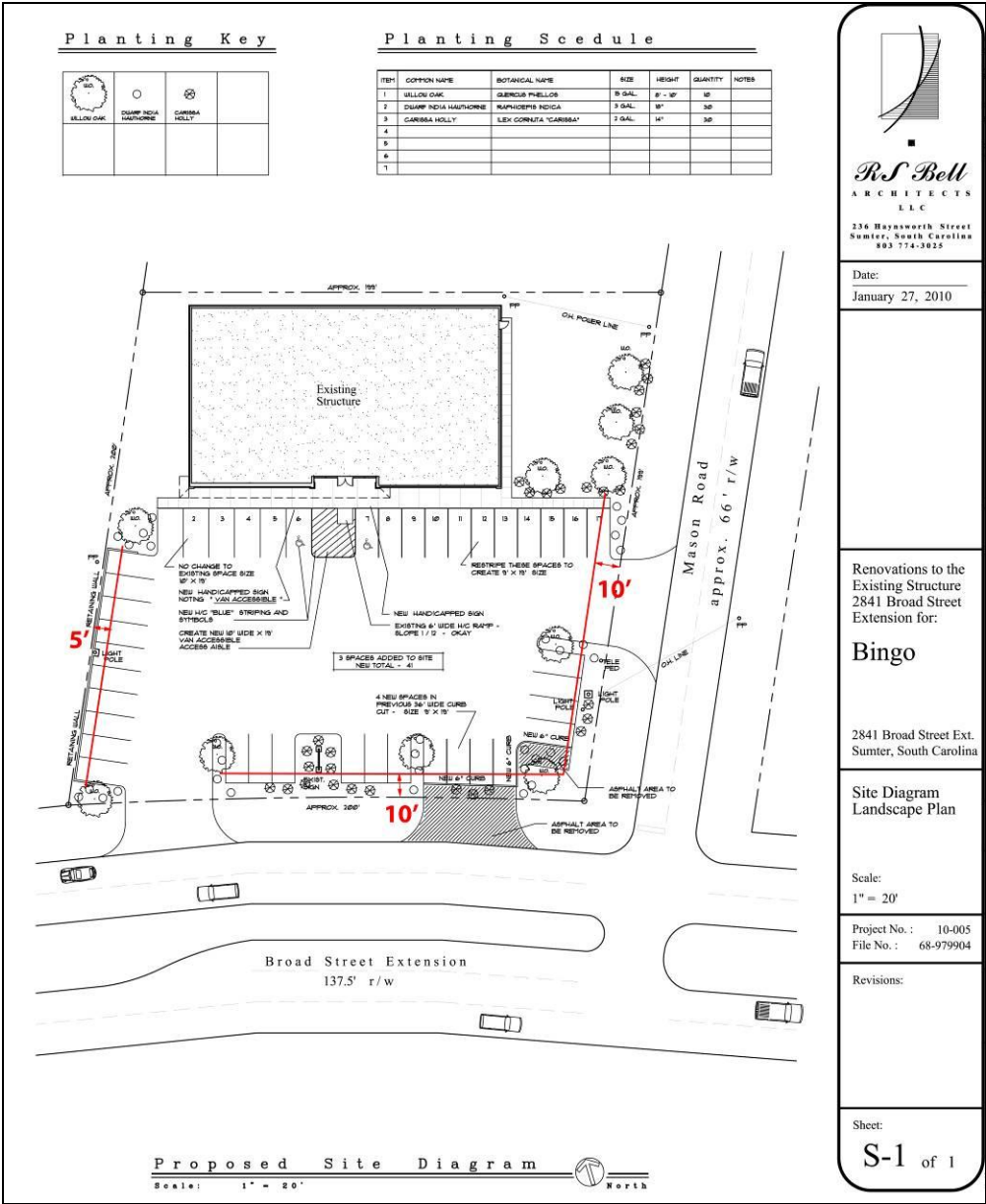
- a. **Function and Materials:** *Buffering shall provide a year-round visual screen to minimize adverse impacts and to insure high aesthetic standards of development. It may consist of fencing, trees, berms, landscaping or a combination thereof.*
- c. **Amount Required:**
  1. *Where more-intensive land uses or zoning districts abut less-intensive land uses or zoning districts, a buffer strip ten feet (10 ft.)feet in width shall be required;*
  2. *Parking lots, garbage collection and utility areas, and loading and unloading areas shall be screened around their perimeter by a buffer strip a minimum of five (5 ft.) feet wide;*

**8.j. 3.b** *Design Requirements:*

- b. **Surfacing, Drainage and Maintenance:** *Off-street parking facilities shall be properly graded for drainage to prevent damage to abutting property and/or public streets and alleys. Parking lots shall be surfaced with asphalt, concrete, or other surfaces approved by the Sumter City-County Planning Commission. Off street parking lots shall include concrete curbs and gutters,*

*maintained in a clean, orderly and dust-free condition, and not used for the sale, repair or the dismantling or servicing of any vehicles, equipment, materials or supplies.*

To alter the existing site layout would significantly reduce the parking availability on the site. It is estimated that approximately 12 parking spaces would be eliminated by applying the ordinance requirements to this parcel. Based on the submitted proposed site plan shown below, the variance request would allow for less than 10 foot buffers along Broad and Mason Streets and less than 5 ft. along the western property line. Specifically, the plan shows a proposed 5 ft. bufferyard on both the Mason Rd. frontage and the Broad St. frontage. The applicant is requesting that the required 5 ft. bufferyard on the interior side of the parcel be replaced with the existing retaining wall.



In addition to these requests the applicant has agreed to close the driveway on Broad St. closest to Mason Rd. and has submitted an attractive landscaping plan for the site.

In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

### **III. FOUR-PART TEST**

**1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

There ***are*** extraordinary or exceptional conditions pertaining to this particular piece of property based on the following:

- The property is an existing building that is located in the Highway Design Corridor. It is similar to many other buildings located in the immediate area in that it was built and the site was developed prior to the current ordinance, and is therefore nonconforming as to parking lot improvements and landscaping. The building has been vacant for some time, and the applicant has been unsuccessful in finding a tenant because of the issue of updating the site to meet current ordinance standards. However, this particular building has a retaining wall along the western side of the property that prevents landscaping buffers to be planted there. The front area adjacent to Broad St. and the side adjacent to Mason St. are nonconforming in terms of bufferyards at this time as well. Changing the dimensions of these buffers would reduce the parking availability significantly.

**2. *These conditions do not generally apply to other property in the vicinity.***

These conditions ***do not*** generally apply to other properties in the vicinity based on the following:

- There are a variety of sizes and shapes of parcels in this area. The adjacent property to the west is not vacant and therefore does not require updating to meet the current standards at this time.

**3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

Application of the ordinance requirement *will* prohibit or unreasonably restrict the utilization of this property due to the following:

- To remove the existing asphalt and require implementation of the current standards of the ordinance would significantly reduce the parking space availability on this site.
- 4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***
- Staff finds that the proposed request is in harmony with the area in which it is located. The 2030 Comprehensive Plan designates this area as a Priority Commercial Corridor. This portion of Broad St. serves as the primary point of entry to the City of Sumter for all new residents to the community, including new Shaw Air Force base residents. As part of the primary entrance point on the primary gateway of Sumter's main commercial corridor, it is therefore imperative that each new business in this area improve the character of the district. With implementation of the proposed landscaping plan for the site, it will provide an attractive element to this area. It will also be an improvement to the current situation which is a vacant building with no updated landscaping.

### **III. STAFF RECOMMENDATION**

The staff has visited the site, reviewed the request and recommends approval of BOA-10-06.

### **IV. DRAFT MOTIONS FOR BOA-10-06, March 10, 2010**

- A. I move that the Zoning Board of Appeals approve BOA-10-06, subject to the findings of fact and conclusions contained in the draft order, dated March 1, 2010 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals deny BOA-10-06, based on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-10-06.

**V. BOARD OF APPEALS DECISION – March 10, 2010**

The Sumter City-County Board of Appeals at its meeting on Wednesday, March 10, 2010, voted to approve this request, as presented by staff, based on the findings of fact and conclusions on exhibit 1.

**Exhibit 1**  
**Order on Variance Application**  
**Board of Zoning Appeals**

**BOA-10-06, Hal Irwin – Bingo Parlor**  
**March 10, 2010**

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Date Filed: February 10, 2010

Permit Case No. BOA-10-06

The Board of Zoning Appeals held a public hearing on Wednesday, March 10, 2010 to consider the appeal of Hal Irwin, c/o Mack Kolb, Sumter, SC for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:
  - a. Parking availability on the property will be significantly reduced by the strict application of the ordinance.
2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:
  - a. Adjacent businesses such as the insurance sales office to the west of this parcel are in operation and are therefore not required to meet current ordinance standards.
  - b. Adjacent parcels do not appear to be as restricted spatially and with regards to such elements as a retaining wall, which severely limits the layout of parking and bufferyards on this parcel.
3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:
  - a. The existing use, a bingo parlor, requires the number of parking spaces equivalent to what is currently available on the site.
4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the



district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

- a. The character of the district will be improved by the updating of the existing landscaping.
  - b. Having an active business in this location will be more beneficial to the district than the current vacant structure.
5. The Board concludes that the effect of the variance ☐ **would** - ☒ **would not** be to allow the establishment of a use not otherwise permitted in the zoning district, based on Section 3.25.25 of the ordinance; ☐ **would** - ☒ **would not** extend physically a nonconforming use of the land; and ☐ **would** - ☒ **would not** change the zoning district boundaries shown on the official zoning map, based on the following findings of fact:

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** - ☒ **GRANTED**, **subject to the following conditions:** The Sumter City-County Board of Appeals at its meeting on, Wednesday, March 10, 2010, voted to approve this variance request. This approval was subject to the findings of fact and conclusions contained in the draft of Exhibit 1.

Approved by the Board by majority vote.

Date issued: \_\_\_\_\_

\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.**

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